

BILL ANALYSIS

Senate Research Center
77R4467 JAT-D

S.B. 1128
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Intergovernmental Relations
3/29/2001
As Filed

DIGEST AND PURPOSE

Currently, many Texas cities have provisions restricting or prohibiting the construction of billboards. However, municipal restrictions do not apply in rural and unincorporated areas. As proposed, S.B. 1128 bans new construction of billboards on any highway, designates one percent of highway funds for landscaping of new road construction, and requires the Texas Department of Transportation to consider aesthetic values in its planning, to help beautify Texas roadways.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 3 (Section 201.614, Transportation Code) of this bill and to the Texas Department of Transportation in SECTION 9 (Section 430.002, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 216.001, Local Government Code, by adding Subsection (d) to provide that this subchapter does not allow the relocation or reconstruction of a billboard in violation of Section 430.002 (Prohibition on Billboards Visible From Highway), Transportation Code.

SECTION 2. Amends Section 216.901(a), Local Government Code, to authorize a home-rule municipality to license, regulate, control, or prohibit the erection of signs or billboards by charter or ordinance, subject to Section 430.002, Transportation Code.

SECTION 3. Amends Chapter 201H, Transportation Code, by adding Section 201.614, as follows:

Sec. 201.614. DESIGN CONSIDERATIONS. (a) Requires the Texas Department of Transportation (department) to consider certain factors when developing transportation projects that involve the construction, reconstruction, rehabilitation, or resurfacing of a highway, other than a maintenance resurfacing project.

(b) Authorizes any person directly affected by the project under consideration to petition the Texas Transportation Commission (commission) for a written review of its findings regarding the considerations under Subsection (a).

(c) Requires the commission to adopt rules to implement this section.

SECTION 4. Amends Chapter 201I, Transportation Code, by adding Sections 201.708 and 201.709, as follows:

Sec. 201.708. LANDSCAPING EXPENDITURES. (a) Requires the department, in connection with a contract for a highway project, to allocate to the district or districts in which the project is located an amount equal to not less than one percent of the amount to be spent under the contract for construction, maintenance, or improvement of the highway. Requires districts, if two or more districts share an allocation under this section, to divide the allocation

according to the portion of the amount under the contract that will be spent in each district.

(b) Requires a district that receives an allocation under this section to spend not less than one half of the allocation for landscaping improvements associated with the project that was the subject of the contract. Authorizes the district to spend the allocated money that is not used for landscaping improvements associated with the project that was the subject of the contract for landscaping improvements associated with another highway or highway segment located in the district.

(c) Authorizes the department to accept gifts, grants, and contributions from private and other sources for the purposes of this section. The use of gifts and grants is subject only to limitations contained in the gift or grant.

(d) Defines "highway project" and "landscape improvements."

Sec. 201.709. LANDSCAPE ENHANCEMENT ACCOUNT. Provides that the landscape enhancement account is an account in the general revenue fund that may be appropriated to the department only for the purposes of Section 201.708. Sets forth the composition of the account.

SECTION 5. Amends Section 391.001, Transportation Code, by amending Subdivision (10) and adding Subdivision (15), to redefine "outdoor advertising" and to define "billboard."

SECTION 6. Amends Section 394.001, Transportation Code, by amending Subdivision (5) and adding Subdivision (6) to redefine "sign" and to define "billboard."

SECTION 7. Amends Chapter 394A, Transportation Code, by adding Section 394.006, as follows:

Sec. 394.006. RELATIONSHIP TO PROHIBITION AGAINST CONSTRUCTION OF NEW BILLBOARDS. Provides that this chapter does not allow the erection or relocation of a billboard in violation of Section 430.002.

SECTION 8. Amends Section 394.043(a), Transportation Code, to require an on-premise or off-premise sign, when displayed, to be designed to resist certain wind loads.

SECTION 9. Amends Chapter 430, Transportation Code, by adding Sections 430.002, 430.003, and 430.004, as follows:

Sec. 430.002. PROHIBITION ON BILLBOARDS VISIBLE FROM HIGHWAY. (a) Defines "billboard" and "highway."

(b) Prohibits a person from: erecting a billboard; or repairing or rebuilding a billboard that is substantially destroyed.

(c) Provides that, for the purposes of this section, a billboard is substantially destroyed if the cost of repairing or rebuilding the billboard is more than 60 percent of the cost of erecting a new billboard of the same size, type, and construction at the same location.

(d) Sets forth billboards for which this section does not apply.

(e) Requires the department to adopt rules for the administration and enforcement of this section and Section 430.003.

Sec. 430.003. RELOCATION OF BILLBOARD. (a) Provides that a person does not violate Section 430.002 if the person relocates a billboard and certain conditions are met.

(b) Authorizes the commission to designate protected highways or portions of highways in the state along which a billboard may not be relocated.

Sec. 430.004. CIVIL PENALTY. (a) Provides that a person who violates Section 430.002 is liable to the state for a civil penalty of not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation. Authorizes a separate penalty to be collected for each day a continuing violation occurs.

(b) Authorizes the attorney general, the district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred to bring a suit to collect the penalty.

(c) Requires a civil penalty collected by the attorney general under this section to be deposited in the landscape enhancement account under Section 201.709. Requires a civil penalty collected in a suit brought by a county or district attorney or by a municipal attorney under this section to be equally divided between this state and the applicable county or municipality, with this state's portion of the penalty collected to be deposited in the landscape enhancement account.

SECTION 10. Effective date: September 1, 2001.

Makes application of Sections 201.614, 201.708, and 201.709, Transportation Code, as added by this Act, prospective.